

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JASON A. McCLIMAN, )  
Plaintiff(s), ) No. C 06-2498 CRB (PR)  
vs. ) ORDER OF DISMISSAL  
RICHARD J. KIRKLAND, et al., ) (Docs # 3 & 4)  
Defendant(s). )

Plaintiff, a prisoner at Pelican Bay State Prison ("PBSP"), has filed a prose civil rights complaint under 42 U.S.C. § 1983 alleging that he has received no vocational training since he arrived at PBSP on March 2005 due to the decision of the California Department of Corrections and Rehabilitation ("CDCH") to eliminate vocational programs at high security state prisons. Plaintiff seeks reinstatement of vocational training programs at California Level IV facilities such as PBSP.

Plaintiff also seeks appointment of counsel and leave to proceed in forma pauperis under 28 U.S.C. § 1915.

## DISCUSSION

**A. Standard of Review**

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must identify cognizable

1 claims or dismiss the complaint, or any portion of the complaint, if the complaint  
2 "is frivolous, malicious, or fails to state a claim upon which relief may be  
3 granted," or "seeks monetary relief from a defendant who is immune from such  
4 relief." Id. § 1915A(b). Pro se pleadings must be liberally construed. Balistreri  
5 v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1990).

6 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two  
7 elements: (1) that a right secured by the Constitution or laws of the United States  
8 was violated, and (2) that the alleged violation was committed by a person acting  
9 under the color of state law. West v. Atkins, 487 U.S. 42, 48 (1988).

10 B. Legal Claims

11 Plaintiff's allegations must be dismissed for failure to state a claim for  
12 relief under § 1983. It is well-established that there is no constitutional right to  
13 rehabilitation in prison. See Rizzo v. Dawson, 778 F.2d 527, 530 (9th Cir. 1985)  
14 (no right to vocational course for rehabilitation).

15 **CONCLUSION**

16 For the foregoing reasons, plaintiff's request to proceed in forma pauperis  
17 (doc # 3) is DENIED and the complaint is DISMISSED under the authority of 28  
18 U.S.C. § 1915A(b)..

19 The clerk shall enter judgment in accordance with this order, terminate all  
20 pending motions as moot (see, e.g., doc # 4), and close the file. No fee is due.

21 SO ORDERED.

22 DATED: May 13, 2006

  
23 CHARLES R. BREYER  
United States District Judge